

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3755 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAJENDRA SHANKARRAO SURYAVANSHI FRIEND OF DETENU

Versus

DISTRICT MAGISTRATE

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Appearance:

MR NM KAPADIA for Petitioner

Mr. BT Rao, Addl. Standing Counsel for respondent

No.2.

Mr. H.L.Jani, AGP for respondents Nos. 1,3 and 4.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 05/08/98

ORAL JUDGEMENT

The petitioner, who is a friend of the detinue Vinodbhai Jashvantrao Gaikwad, has challenged the order of the detention dated 3/4/98 in this petition under Article 226 of the Constitution of India passed under Section 3(2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act,

1980 by the District Magistrate, Baroda, whereby the District Magistrate was satisfied that with a view to preventing the detainee from black marketing the essential commodities like kerosene supplied under the Public Distribution System to ration card holders and from acting in any manner prejudicial to the maintenance of supplies of commodities of Public Distribution Service it is necessary to detain the detainee.

Since the petition is required to be allowed on the first contention advanced by Mr.N.M.Kapadia, learned advocate appearing for the petitioner, it is not necessary for me to refer to or renarrate the allegations made in the grounds of detention supplied to the petitioner. Mr.Kapadia has submitted that the detaining authority has supplied number of documents to the detainee which are totally illegible, with the result, the petitioner could not make an effective representation against the order of detention to the authorities and therefore, the order of detention is vitiated. My attention has been invited to pages Nos.243, 333, 341, 465, 475 and 506 which are the copies of the bills supplied to the detainee. Having perused these documents, I am of the view that they are totally illegible. It is not possible to read the names and other details. Mr.Jani, learned A.G.P. appearing for the State has also conceded that the documents are totally illegible. In view of this factual position, I am of the view that by supplying such illegible documents, the right guaranteed to the petitioner under article 22(5) of the Constitution is violated as the petitioner could not make an effective representation.

In the result this petition is allowed. The respondents are directed to release the detainee Vinodbhai Jashvantrao Gaikwad, if not required for any other lawful cause. Rule is made absolute, with no order as to costs.

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